

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

JAMES E. HANCOCK,

Petitioner,

Case No. 3:05-cv-310

-vs-

: District Judge Thomas M. Rose
Chief Magistrate Judge Michael R. Merz

TIMOTHY BRUNSMAN, Warden,

Respondent.

ORDER ADOPTING SUPPLEMENTAL REPORT AND RECOMMENDATIONS

The Court has reviewed the Supplemental Report and Recommendations of United States Magistrate Judge Michael R. Merz (Doc. #8), to whom this case was referred pursuant to 28 U.S.C. §636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) expired on January 30, 2006, hereby ADOPTS said Supplemental Report and Recommendations.

It is therefore ORDERED that

1. The Motion to Dismiss (Doc. No. 5) is denied;
2. Petitioner is ordered to file a motion for delayed appeal in the Ohio Supreme Court not later than March 15, 2006; and
3. All further proceedings herein are stayed pending a decision by the Ohio Supreme Court on Petitioner's motion for delayed appeal. Petitioner is ordered to provide this Court with a copy of his filings with the Ohio Supreme Court and keep this Court currently advised of the status

of the matter before the Ohio Supreme Court.

February 14, 2006.

s/Thomas M. Rose

Thomas M. Rose
United States District Judge